

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | | |
|-------------------------------|---|---------------------|
| -----X | | |
| DONNELL SCOTT, | : | |
| | : | |
| Plaintiff, | : | |
| | : | |
| -against- | : | 23-CV-6153(VSB) |
| | : | |
| DELTA SCIENTIFIC CORPORATION, | : | <u>ORDER</u> |
| | : | |
| Defendant. | : | |
| -----X | | |

VERNON S. BRODERICK, United States District Judge:

I am in receipt of Defendant's letter dated August 3, 2023. (Doc. 5.) In this letter, Defendant provides, for the first time, the affidavit of service of the complaint in the underlying State Action. (*Compare* Doc. 1, *with* Doc. 5.) Because Defendant was served with the complaint in the State Action on June 30, 2023, (*see* Doc. 5 at 3), and filed their Notice of Removal on July 17, 2023¹, (Doc. 1), the Notice of Removal is deemed timely pursuant to 28 U.S.C. § 1446(b)(1).

Defendant has not filed any papers suggesting that they filed an answer in the State Action. Pursuant to Fed. R. Civ. P. 81(c)(2):

[a] defendant who did not answer before removal must answer or present other defenses or objections under these rules within the longest of these periods: (A) 21 days after receiving—through service or otherwise—a copy of the initial pleading stating the claim for relief; (B) 21 days after being served with the summons for an initial pleading on file at the time of service; or (C) 7 days after the notice of removal is filed.

Here, the longest of these periods is 7 days after the Notice of Removal was filed: July 24, 2023.


To date, Defendant has not answered or otherwise responded to the complaint, nor have they sought an extension to do so. Accordingly, Defendant is ordered to answer on or otherwise

¹ Defendant's letter at Doc. 5 states that "The Notice of Removal was actually filed July 19, 2023 (See Docket #3)." This is incorrect. While counsel for Defendant entered their appearance on July 19, 2023, (Doc. 3), the Notice of Removal was filed on July 17, 2023, (Doc. 1 at 2, 3; Doc. 1-1 at 2).

respond to the complaint on or before August 11, 2023.

SO ORDERED.

Dated: August 7, 2023
New York, New York



VERNON S. BRODERICK
United States District Judge